



STATE OF INDIANA

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January 5, 2016

Mr. Jesse Clements, Mr. Gersh Zavodnik
Post Office Box 68082
Indianapolis, Indiana 46268

Re: Formal Complaint 15-FC-325; Alleged Violation of the Access to Public Records Act by the Marion Superior Court 6

Dear Mr. Clements and Mr. Zavodnik:

This advisory opinion is in response to your formal complaint alleging Marion Superior Court 6 ("Court") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Court has responded to your complaint via Ms. Emily VanOsdol, Court Administrator. Her response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on December 16, 2015.

BACKGROUND

Your complaint dated December 16, 2015 alleges Marion Superior Court 6 violated the Access to Public Records Act by failing to allow inspection of a court record on court equipment.

On November 4, 2015 you requested access to an audio recording. The Court promptly provided you a CD copy of the recording; however, you have not been given access to inspect the recording on Court equipment.

On December 21, 2015 the Court responded. The Court states it has fulfilled its burden under the APRA by providing you a CD and has not denied you records.

ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." See Ind. Code § 5-14-3-1. Marion Superior Court 6 is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the Court's disclosable public records during regular

business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14-3-3(a).

You admit the Court has provided the document requested. If I am interpreting your complaint correctly, the issue is whether the Court must also provide you access to inspect the recording on Court equipment. Therefore, it stands to reason that while inspection is not a substitute for a copy; a copy can indeed be provided in lieu of inspection.

Producing a true and accurate copy of a public record is inherently inclusive of allowing the inspection of it. You have not alleged the copy is in a propriety file format necessitating special listening equipment exclusive to the Court. If it were, my analysis would be different. Inspection includes the right to do the following pursuant to Ind. Code § 5-14-3-2(h)(2):

In the case of tape recordings or other aural public records, to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from them.

The Court has not denied you access to do any of these activities. Because you have a duplicate copy of a recorded public proceeding, you have exclusive and unfettered access to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from it. Inspection has been unequivocally granted.

Because the Court provided you with a timely production of a copy to inspect, your subsequent requests for inspection were superfluous and do not warrant a successive acknowledgement. Your request has been fulfilled and not denied as you claim; therefore, a written denial under Ind. Code § 5-14-3-9 is unnecessary.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor that Marion Superior Court 6 has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LHB', with a long, sweeping horizontal stroke extending to the left.

Luke H. Britt
Public Access Counselor

Cc: Ms. Emily VanOsdol, Esq.